

REMARKS

Applicant thanks the Examiner for the thorough examination of the present application, but respectfully requests reconsideration in view of the reasons that follow. At the time of the Office Action dated June 23, 2009 (“Office Action”), claims 1-57 were pending. Of these claim, claims 2-4, 7, 18-20, 23, 34-36, and 39 have been amended. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier. Upon entry of this response, claims 1-57 will be pending.

I. 35 U.S.C. § 112, Second Paragraph

On page 2 of the Office Action, claims 2-4 and 18 were rejected for failing to provide proper antecedent basis for various claim elements. In response to this rejection, Applicant has amended claims 2-4 and 18 to address the potential antecedent issues. In addition, Applicant has amended claims 7, 19, 20, 23, 34-36, and 39 to address similar potential antecedent issues. Applicant therefore respectfully requests withdrawal of the 35 U.S.C. § 112 rejection.

II. 35 U.S.C. § 102(b)

On page 2 of the Office Action, claims 1, 6, 8, 14, 15, 17, 22, 24, 30, 31, and 50-54 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application No. 2003/0018878 to Dorward et al. (“Dorward”). Applicant traverses this rejection for at least the reasons set forth below.

The Office Action alleges that Dorward discloses every element recited in independent claims 1, 6, 17, and 22. Applicant respectfully disagrees. As discussed in detail below, Dorward fails to disclose various elements required by independent claims 1, 6, 17, and 22. In addition, and as also discussed in detail below, Dorward fails to disclose various elements required by dependent claims 8, 14, 15, 24, 30, 31, and 50-54.

Dorward discloses “data storage techniques that are suitable for use in managing archival data in a network storage system.” (*See*, paragraph [0002]). More specifically, Dorward discloses that “data is processed to generate an address as a function of the contents of the data block, and the data block is then stored in the system in a memory location identified by the address.” (*See*, paragraph [0009]).

Accordingly, Dorward is generally directed to creating an address based on the contents of a data block, wherein the address includes the storage address of the data block.

In contrast to Dorward, independent claims 1 and 17 recite “divide original data into a plurality of blocks” and “store information within a header for restoring the plurality of blocks to the original data.” Applicant respectfully submits that Dorward does not anticipate these claim elements because Dorward does not expressly or inherently discuss (i) dividing original data into blocks, or (ii) storing information pertaining to restoring a plurality of blocks to the original data. Although the Office Action asserts that these elements are discussed in paragraphs [0041], [0043] and Figure 5 of Dorward, Applicant has thoroughly reviewed these portions of Dorward, as well as the rest of Dorward, and cannot find support for this assertion. Paragraph [0041] merely discusses that the data blocks (116) and indexes (112 and 114) are stored separately; paragraph [0043] merely discusses that data blocks include headers; and figure 5 simply illustrates a data block with a header and data. None of these portions of Dorward expressly or inherently discuss (i) dividing data blocks. Rather, Dorward discusses that addresses are created as a function of the contents of the data block. As one of ordinary skill in the art would understand, creating an address as a function of a data block is not the same as dividing a data block. This point is evidenced by Dorward’s statement in paragraph [0041] that “since blocks are immutable they can be densely packed into an arena without fragmentation.” (*See*, paragraph [0043]; emphasis added). Moreover, none of the cited portions of Dorward discuss (ii) storing information pertaining to restoring a plurality of blocks to the original data. Although a header is illustrated in figure 5 and discussed in paragraph [0043], there is no discussion whatsoever about storing data pertaining to restoring a plurality of blocks to the original data.

In view of the above, Applicant respectfully submits that it is quite clear that Dorward does not anticipate independent claims 1 and 17. As the Examiner is aware, for a prior art reference to anticipate the claim of a patent, the reference must disclose each and every limitation of a claimed invention. *See Apple Computer, Inc. v. Articulate Systems, Inc.*, 234 F.3d 14, 20 (Fed. Cir. 2000). Because this burden has not been met, Applicant respectfully submits that the Office Action fails to set forth a *prima facie* case of anticipation, and therefore the rejection of independent claims 1 and 17 should be withdrawn.

Furthermore, with respect to independent claims 6 and 22, Applicant respectfully submits that the rejection of these claims should also be withdrawn because Dorward does not expressly or inherently disclose various elements recited in these claims. Independent claims 6 and 22 recite “receive a plurality

of blocks and, based on information stored within a header, restore the plurality of blocks to original data.” In addressing this claim element, the Office Action refers to the header illustrated in Figure 3, and the integrity check discussion in paragraph [0043]. There is, however, no mention in these portions of Dorward related to restoring blocks to original data based on information stored in a header. At best, paragraph [0043] mentions that “[t]he primary purpose of the block header is to provide integrity checking during normal operation and to assist in data recovery.” However, checking for integrity, in the context of Dorward, likely relates to a checksum in the header that is used to detect manipulation of information in the block. An integrity determination of this kind cannot reasonably be interpreted as the same as restoring blocks to original data based on information stored in a header. At a minimum, there is no indication that any restoring occurs, much less restoring to original data based on information stored in the header. Accordingly, the Office Action fails to set forth a *prima facie* case of anticipation, and therefore the rejections of independent claims 6 and 22 should also be withdrawn.

In addition to the above, Applicant also submits that the Dorward fails to anticipate a number of dependent claims, as alleged in the Office Action. For example, claim 8 recites that “the information stored within the header is stored in an option field of the header.” In addressing this claim element, the Office Action refers to the fields illustrated in Figure 3 and discussed in paragraph [0043]. These portions of Dorward, however, do not disclose an “option field” as the term is generally understood in the art. Moreover, there is no indication that the particular “information” specified in the independent claims is stored in an option field. Accordingly, Dorward cannot be reasonably interpreted as reading on this claim element, and therefore does not anticipate claim 8.

Furthermore, claim 51 recites that “the information stored within the header comprises a sequence number and a block size.” In addressing this claim element, the Office Action refers to paragraph [0045] of Dorward, as allegedly disclosing this claim element. This portion of Dorward states:

A given block header 308 includes a “magic” number, the fingerprint of the data block, a user-supplied type identifier, the size of the data block, the identity of the client device or other user that wrote the data block, and the time when the block was first written, the latter being denoted “wtime.” Note that in the illustrative embodiment only one copy of a given data block is stored in the data log 300. The user and wtime fields thus correspond to those associated with the first time the block was stored to the server.

Although Dorward discusses a number of parameters included in the header, there is no express or inherent discussion about the header comprising a “sequence number.” Applicant, therefore, submits that Dorward does not anticipate claim 51.

Applicant submits that these are just a few examples of why Dorward does not anticipate the dependent claims as alleged in the Office Action. However, Applicant submits that the other rejected dependent claims are also distinguishable for their own reasons, and Applicant expressly reserves the right to address these reasons at a later time, if required.

III. 35 U.S.C. § 103(a)

On page 9 of the Office Action, claims 2-5, 7, 9, 12, 13, 18-21, 23, and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dorward in view of U.S. 6,965,646 to Firestone (“Firestone”). On page 22 of the Office Action, claims 10, 11, 26, and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dorward in view of U.S. 2003/0118107 to Itakura et al. (“Itakura”). On page 25 of the Office Action, claims 16 and 32 were rejected under U.S.C. § 103(a) as being unpatentable over Dorward in view U.S. 2003/0169759 to Asai (“Asai”). On page 27 of the Office Action, claims 35-37 were rejected 35 U.S.C. § 103(a) as being unpatentable over Itakura, Dorward, and Firestone. On page 30 of the Office Action claim 48 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Itakura, Dorward, and Asai. On page 32 of the Office Action, claims 33, 34, 38, 39, 42, 43, 46, 49, 52, and 55-57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Itakura and Dorward.

With regard to independent claim 33, Applicant incorporates its comments from above and submits that the rejection of independent claim 33 is improper for at least the same reasons as presented with regard to independent claim 1. With regard to independent claim 38, Applicant incorporates its comments from above and submits that the rejection of independent claim 38 is improper for at least the same reasons as presented with regard to independent claim 6.

With regard to the remaining cited references, Applicant submits that the remaining references were relied upon by the Examiner merely as alleged evidence of one or more elements recited in the dependent claims of the present application. However, none of these remaining references cures the above-discussed deficiencies of Dorward, nor has the Examiner asserted that they do.

CONCLUSION

Because none of the references cited by the Examiner, either separately or in combination with each other, teaches or suggests all of the features recited in independent claims 1, 6, 17, 22, 33, and 38, Applicant submits that independent claims 1, 6, 17, 22, 33, and 38 are patentable over these cited references. Furthermore, because dependent claims 2-5, 7-16, 18-21, 23-32, 34-37, and 39-57 are each directly or indirectly dependent upon independent claims 1, 6, 17, 22, 33, and 38, Applicant submits that each of these claims are allowable for at least the same reasons discussed above, in addition to their own reasons which Applicant reserves the right to argue at a later time if necessary.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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